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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/382,702

08/24/1999

PETER ANTHONY HOCHSTEIN

9100.2881 REI

5578

25099

7590

07/23/2010

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PRINCETON, NJ 08542

EXAMINER

BERHANE, ADOLF D

ART UNIT

PAPER NUMBER

2838

MAIL DATE

DELIVERY MODE

07/23/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/382,702	HOCHSTEIN, PETER ANTHONY	
	<b>Examiner</b>	<b>Art Unit</b>	
	Adolf Berhane	2838	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 6/7/10.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 24,28,32,37,38,41,42,44 and 46-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24,28,32,37,38,41,42,44 and 46-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

Art Unit: 2838

### ***Reissue Applications***

1. The reissue oath/declaration filed with this application is defective because it fails to identify at least one error which is relied upon to support the reissue application. See 37 CFR 1.175(a)(1) and MPEP § 1414.

A new oath is required. The oath or declaration must properly identify at least one 35 U.S.C. 251 error being relied upon as a basis for the reissue and that it is indeed an appropriate error for reissue (37 CFR 1.175(a)(1)). For example, "failure to include the following claims in the original patent..." is not an acceptable statement of an error. See reissue guide and MPEP 1414.

Any error in the claims must be identified by reference to the specific claim(s) and the specific claim language wherein lies the error. A statement of "... failure to include a claim directed to ..." and then presenting a newly added claim, would not be considered a sufficient "error" statement since applicant has not pointed out what the other claims lacked that the newly added claim has, or vice versa. Such a statement would be no better than saying in the reissue oath or declaration that "this application is being filed to correct errors in the patent which may be noted from the change made by adding new claim 24." In both cases, the error has not been identified.

b) The oath or declaration must identify each inventor by full name, and country of citizenship as required by 35 U.S.C. 115 and 37 CFR 1.63(a)(3). Each inventor's residence and mailing address must also be provided, if they have not been supplied in the application data sheet (ADS) (37 CFR 1.76). When filed by the assignee, the required information must be present, even if it is asserted that it is based on the last available information known to assignee ("upon information and belief").

(c) The oath or declaration must state that the person making the oath or declaration believes the named inventor(s) to be the original and first inventor(s) of the invention claimed as required by 37 CFR 1.63(a)(4).

(d) The oath or declaration must state that the person signing has reviewed and understands the contents of the specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration as required by 37 CFR 1.63(b)(2).

(e) The oath or declaration must state that the person signing believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought as required by 37 CFR 1.63(a)(4).

(f) The oath or declaration must state that the person signing acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56 as required by 37 CFR 1.63(b)(3).

2. Claims 27, 38, 41, 42, 44 and 46-53 are rejected as being based upon a defective reissue oath under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the oath is set forth in the discussion above in this Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adolf Berhane whose telephone number is 571-272-2077. The examiner can normally be reached on Monday- Friday 8 AM to 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Lewis can be reached on 571-272-1838. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Adolf Berhane/  
Adolf Berhane  
Primary Examiner  
Art Unit 2838

Application/Control Number: 09/382,702  
Art Unit: 2838

Page 4